REMARKS

In accordance with 37 C.F.R. § 1.116(b), Applicants have amended claims 14, 19, 45, 46 and 52, and earnestly requests entry of said amendments. While the amendments touch the merits of the application under examination, it is respectfully requested that the amendments be admitted as being necessary to place the case into condition for allowance and having not been earlier presented due to the Applicants' failure to appreciate the Office's broad reading of the applied prior art references and, thus, the necessity of expressly stating the limitation that was brought to Applicants' attention in the Response to Arguments section on pages 5, 6 and 9 of the Final Action. Additionally, the amendments can be viewed as responding to requirements of form expressly stated on pages 5, 6 and 9 of the Final Office Action wherein the Examiner noted that the features upon which applicants relied in responding to the initial Office Action, were not recited in the rejected claims. Accordingly, pursuant to 37 C.F.R. § 1.116 (b)(1), these limitations have been included in the claims to render all of the rejected claims allowable in compliance with the noted requirements of form set forth in the Final Action.

Before entry of this Amendment, claims 14-22 and 44-77 were pending in the application. After entry of this Amendment claims 14-22 and 44-77 remain pending under examination. Claims 47-51 and 54-77 have been withdrawn from consideration. The number of total claims has not been increased, and the number of independent claims has not been increased beyond the number for which payment previously had been made.

Applicants have carefully considered the Examiner's Action of December 21, 2005, and the references cited therein. The following is a brief summary of the Action. Claims 14-16, 18, 20-22 and 44 were rejected under 35 U.S.C. § 102(b) as being anticipated by Hayford et al (U.S. Patent No. 3,585,998). Claims 17, 45, 46, 52 and 53 were rejected under 35 U.S.C. § 102(b) as being anticipated by or in the alternative, under 35 U.S.C. §103(a) as obvious over, Hayford et al. Claim 19 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Hayford et al in view of Vega (U.S. Patent No. 6,153,209) and Kyzysik (International Publication No. WO 00/64500). Claim 19 was provisionally rejected under the judicially created doctrine of obviousness-type double patenting over claims 12-17 and 20-23 of copending Application 09/990,686 in view of Vega and Kyzysik

Applicants respectfully traverse the rejection of claims 14-16, 18, 20-22 and 44 under 35 U.S.C. § 102(b) over Hayford et al (U.S. Patent No. 3,585,998) for the reasons explained below.

Claim 14 requires an effective amount of medicinal composition applied in a pattern upon the surface of the topsheet that is adapted to face the body. Claim 14 further requires the medicinal composition to be adjacent and in contact with the porous material that forms the topsheet immediately upon the application of the medicinal composition to the surface of the topsheet that is adapted to face the body rather than being stored in a capsule that must be subjected to external forces in order to release the medicinal composition.

Hayford column 1, line 51 identifies the capsules 4 that contain the baby oil formulation as being "pressure-rupturable capsules 4 containing baby oil formulation."

As Hayford column 6, lines 12-18 makes clear, the capsules 4 are ruptured by applying external mechanical pressure such as by the weight of a rolling pin or unheated hand iron or the baby's weight. Thus, Hayford teaches that these Hayford capsules 4 release the baby oil by the application of external pressure.

Page 9, lines 6-8 of paragraph 14 of the Final Action states that:

> However the description of "medicinal compositions" as described on page 10, line 17-page 12, line 32 does not preclude the capsule wall from being part of the composition.

However, the following sentence at page 11, lines 20-22 of applicants' written description makes clear that the "medicinal compositions" are applied as liquids rather than being stored in capsules that must be breached by external pressures in order to release the medicinal compositions for contact with the wearer's body (emphasis added):

> Medicaments can be applied to the body-side surface of the topsheet using various forms of equipment capable of a precise, **uniform application of a liquid** in a desired pattern.

See also page 11, line 36 – page 12, line 1 of applicants' written description (emphasis added):

> Such a matrix or pattern is believed to lessen the loss of **liquid handling properties** in the treated areas.

See also page 12, lines 13-15 of applicants' written description (emphasis added):

> By utilizing **small drops** and/or segments the **melted or liquid medicament** and/or medicament composition cools and/or solidifies quicker thereby allowing formation of the round shape above the body-side surface of the topsheet.

Moreover, per Hayford column 3, lines 3-46, it is clear that the external phase material that forms the cell wall of the Hayford capsule 4 is composed of materials that are not medicinal compositions.

Lines 14-17 of paragraph 14 on page 9 of the Final Action state (emphasis in original):

> The claims do not require the skin health benefit agent be directly in contact with the porous material or when such is directly in contact with the porous material. It is noted that the baby oil formulation, i.e. the skin health benefit agent of Hayward (sic) does directly contact the porous material upon rupture of the capsules.

However, claim 14 does not read on a skin health benefit agent that is separated from the topsheet or from the body by a coating, such as the cell wall of the Hayford capsules 4, that itself is not composed of a "medicinal composition."

Prior to reading these statements in the Final Action, applicants did not appreciate that the language of claim 14 would be so interpreted and accordingly have proposed to amend claim 14 in accordance with the arguments advanced in the remarks to the prior amendment. As amended, claim 14 requires that the medicinal composition must contact the porous material immediately upon the application thereof to the surface of the topsheet that is adapted to face the body.

Hayford uses encapsulated baby oil as the medicinal composition. Hayford column 2, lines 30-31 describes the capsules as "dry to the touch (until broken)." , it is clear that the external phase material that forms the cell wall of the capsule 4 that contains the baby oil formulations is composed of materials that are not medicinal compositions. The encapsulation procedures for the baby oil formulations are disclosed per Hayford column 3, lines 5-6 to be as indicated in U.S. Patent Nos. 2,800,457 and

2,800,458, and these patents do not use medicinal compositions to encapsulate the oil. Indeed, it appears that Hayford teaches the person of ordinary skill that these materials that are used to encapsulate the baby oil formulations have a tendency to irritate a baby's tender skin when the capsules are in substantially direct contact with the baby's skin. This conclusion is drawn from the following passage taken from Hayford column 3, lines 27-31 (emphasis added):

> The use of gelatin-hyphen arabic material is frequently preferable, especially in structures of the type shown in FIGS. 1 and 4, as it has less tendency to **irritate a baby's tender skin**, e.g., as when capsules are in substantially direct contact therewith.

Thus, Hayford et al relies on an irritating capsule shell that must be broken by external pressure in order to release the medicinal composition and that both before and after being broken constitutes an irritant that is counterproductive to the desired effects of the medicinal composition. In contrast to Hayford et al, applicants' absorbent article described in claim 14 requires the medicinal composition to be adjacent and in contact with the porous material that forms the topsheet immediately upon the application of the medicinal composition to the surface of the topsheet that is adapted to face the body.

Applicants therefore respectfully submit that claims 14-22, 44-46, 52 and 53 are patentable under 35 U.S.C. § 102(b) and/or under 35 U.S.C. §103(a) over Hayford et al.

Applicants respectfully traverse the rejection of claims 17, 45, 46, 52 and 53 under 35 U.S.C. § 102(b) and/or under 35 U.S.C. §103(a) over Hayford et al. for the reasons explained below.

Concerning claims 45 and 46, page 4, lines 14-15 of paragraph 6 of the Final Action states that:

> the viscosity of the discrete segments in the end product is not claimed.

However, prior to reading these statements in the Final Action, applicants did not appreciate that the language of claims 45 and 46 would be so interpreted and accordingly have proposed to amend claims 45 and 46 in accordance with the arguments advanced in the remarks to the prior amendment. As amended, claims 45 and 46 require that the medicinal composition has a viscosity in the specified range of from about 1 centipoise to about 300 centipoise for claim 45 and from about 4 centipoise to about 50 centipoise for claim 46, when the medicinal composition resides in a pattern upon the surface of the topsheet. Hayford et al. does not disclose any such ranges, and thus claims 45 and 46 are patentable under 35 U.S.C. § 102(b) and/or under 35 U.S.C. §103(a) over Hayford et al. for these additional reasons.

Concerning claim 52, page 5, lines 2-3 of paragraph 6 of the Final Action states that:

> the specific temperature and solidity of the discrete segments in the end product are not claimed.

However, prior to reading these statements in the Final Action, applicants did not appreciate that the language of claim 52 would be so interpreted and accordingly have proposed to amend claim 52 in accordance with the arguments advanced in the remarks to the prior amendment. As amended, each of claims 52 and 53 requires that "medicinal composition resides upon said surface of the top sheet as a melted liquid that has solidified at room temperature to form said pattern comprising discrete segments."

Hayford uses encapsulated baby oil as the medicinal composition. Hayford column 1, line 51 identifies the capsules 4 that contain the baby oil formulation as being "pressure-rupturable capsules 4 containing baby oil formulation." As Hayford column 6, lines 12-18 makes clear, the capsules 4 are ruptured by applying external mechanical pressure such as by the weight of a rolling pin or unheated hand iron or the baby's weight. Hayford column 4, lines 27-54 explains that the Hayford capsules 4 are incorporated into the liner by roll coating the capsules onto the surface of the liner, spraying them on the liner, mixing them with the slurry that is used to form the liner, or spraying them onto the fibers used to form the diaper core. Thus, Hayford teaches that these Hayford capsules 4 release the baby oil by the application of external pressure rather than melting. Accordingly, the medicinal composition within the Hayford capsules 4 does not reside upon the surface of the top sheet as a melted liquid that has solidified at room temperature, either before or after the capsules would be broken by the application of external pressure.

Accordingly, Hayford neither anticipates nor renders obvious claim 52 or claim 53, which depends upon claim 52.

Applicants therefore respectfully submit that claims 17, 45, 46, 52 and 53 are patentable under 35 U.S.C. § 102(b) and/or §103(a) over Hayford et al.

Applicants respectfully traverse the rejection of claim 19 under 35 U.S.C. § 103(a) over Hayford et al in view of Vega (U.S. Patent No. 6,153,209) and Kyzysik (International Publication No. WO 00/64500) for the reasons explained below.

Claim 19 requires a pattern that comprises discrete segments located only within spaced lines extending across the surface of the topsheet. Moreover, in claim 19, as presented herein, each of the lines of the pattern has a width less than about 4 mm.

In Vega, the person of ordinary skill is schooled to believe that the width of each line in the pattern can vary within a range of from 2.5 mm to 19 mm. Thus, the person of ordinary skill takes from Vega a pattern that has a line of 2.5 mm adjacent a line that is 19 mm. Vega never teaches a pattern where no line exceeds about 4 mm. Kyzysik's range begins at 5 mm and increases from there. Accordingly, one must be schooled by applicants' disclosure in order to be lead to adopt a pattern of uniform widths as in Kyzysik and while decreasing Kyzysik's uniform width to widths that vary within the lower portion (2.5 mm to 4 mm) of the range of the widths of Vega's stripes (2.5 mm to 19 mm), and then apply this pattern to Hayford et al.

Applicants therefore respectfully submit that claim 19 is patentable over Hayford et al in view of Vega and Kyzysik.

Claim 19 was provisionally rejected under the judicially created doctrine of obviousness-type double patenting over claims 12-17 and 20-23 of copending Application 09/990,686 in view of Vega and Kyzysik. Applicants submit herewith a Terminal Disclaimer to Obviate a Provisional Double Patenting Rejection Over a Pending "Reference" Application.

Accordingly, Applicants respectfully submit that all pending claims patentably define over the cited art and are allowable. The present application is in condition for allowance and favorable action thereon is respectfully requested. The Examiner is

encouraged to contact the undersigned at her convenience should she have any questions regarding this matter or require any additional information.

Respectfully submitted,

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